

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

BAKHTIYOR KHABIBOV,

Petitioner,

V.

OSCAR AVILES, et al.,

Respondents.

Civ. No. 15-7566 (KM)

MEMORANDUM AND ORDER

The petitioner, Bakhtiyor Khabibov, is an immigration detainee currently held at the Hudson Correctional Center in Kearny, New Jersey. He is proceeding *pro se* with a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241.

The sole proper respondent in this case is Oscar Aviles, the warden of the Hudson Correctional Center. *See Rumsfeld v. Padilla*, 542 U.S. 426, 434-35 (2004). Therefore, the petition will be dismissed with prejudice as to respondents Jeh Johnson, Sarah Saldana, Loretta E. Lynch, Thomas S. Winkowski, and Philip T. Miller.

Mr. Khabibov's habeas petition challenges his current immigration detention. "Federal courts have habeas jurisdiction to examine the statutory and constitutional bases for an immigration detention unrelated to a final order of removal." *Ufele v. Holder*, 473 F. App'x 144, 146 (3d Cir. 2012) (citations omitted). In accordance with Rule 4 of the Rules Governing Section 2254 Cases, applicable to § 2241 cases through Rule 1(b) of the Rules Governing Section 2254 Cases, this Court has screened the habeas petition for dismissal and determined that dismissal without an answer and the record on this issue is not warranted.

Accordingly, IT IS this 10th day of November, 2015,

ORDERED that the habeas petition is dismissed with prejudice as to respondents Jeh Johnson, Sarah Saldana, Loretta E. Lynch, Thomas S. Winkowski, and Philip T. Miller; and it is further

ORDERED that the Clerk shall serve a copy of the petition (Dkt. No. 1) and this Order upon respondent Oscar Aviles by regular mail, with all costs of service advanced by the United States; and it is further

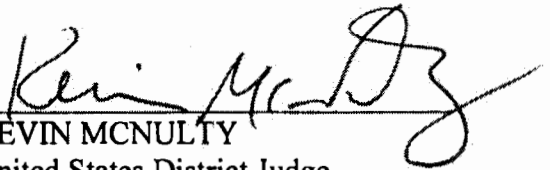
ORDERED that the Clerk shall forward a copy of the petition (Dkt. No. 1) and this Order to the Chief, Civil Division, United States Attorney's Office, at the following email address: USANJ-HabeasCases@usdoj.gov; and it is further

ORDERED that within thirty (30) days of the date of the entry of this Order, respondent shall file and serve an answer which responds to the allegations and grounds in the petition and which includes all affirmative defenses respondent seeks to invoke; and it is further

ORDERED that respondent shall file and serve with the answer certified copies of all documents necessary to resolve petitioner's claim(s) and affirmative defenses; and it is further

ORDERED that within thirty (30) days of receipt of the answer, petitioner may file a reply to the answer; and it is further

ORDERED that within seven (7) days of petitioner's release, by parole or otherwise, respondent shall electronically file a written notice of the same with the Clerk.


KEVIN MCNULTY
United States District Judge